

This letter provides a reference to the Department's proposed rules regarding the Gas Use Tax Law. See 86 Ill. Adm. Code 471.101 et seq. (This is a GIL.)

April 12, 2004

Dear Xxxxx:

This letter is in response to your letter dated August 28, 2003, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I spoke with PERSON in the Miscellaneous tax section and he recommended that I address my question to you. I am confused regarding the removal of the exemption as it relates to the purchase of gas out of state, and more specifically the exemption within the SB 1733 as stated below

Section 5-50. Exemptions. The tax imposed under this Act shall not apply to:

- (1) Gas used by business enterprises located in an enterprise zone certified by the Department of Commerce and Economic Opportunity pursuant to the Illinois Enterprise Zone Act;

Can you explain what your interpretation of this is, and what does it mean? Specifically from my reading of this bill, I have interpreted this as that if the company is located within the enterprise zone than they would be exempt to the purchase of Natural Gas, and that they would not have to be certified by DECCA with regards to number of jobs or purchase activity. Please let me know if I am interpreting this correctly.

Thank you in advance, and if you have any questions, please call me.

DEPARTMENT'S RESPONSE:

We have waited to answer questions regarding the Gas Use Tax Law until the Department had filed proposed rules regarding this law. The Department's proposed rules have been filed and may now be viewed on the Department's Internet website referenced below. See 86 Ill. Adm. Code 471.101 et seq. As you have noted in your letter, Section 5-50 of the Gas Use Tax Law provides in part:

The tax imposed under this Act shall not apply to:

(1) Gas used by business enterprises located in an enterprise zone certified by the Department of Commerce and Economic Opportunity pursuant to the Illinois Enterprise Zone Act;

We concur with your interpretation that if a business enterprise is located in an enterprise zone certified by the Department of Commerce and Economic Opportunity pursuant to the Illinois Enterprise Zone Act, it would qualify for the exemption regardless of whether or not the business itself was certified by the Department of Commerce and Economic Opportunity.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk